

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 516 Parnell Place, Philadelphia, PA 19144

Address of Defendant: 1245 Highland Avenue, Suite 401, Abington, PA 19001

Place of Accident, Incident or Transaction: 1200 Old York Road, Abington, PA 19001

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes No

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9.16.24

Attorney-at-Law / Pro Se Plaintiff

60643

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
 2. FELA
 3. Jones Act-Personal Injury
 4. Antitrust
 5. Patent
 6. Labor-Management Relations
 7. Civil Rights
 8. Habeas Corpus
 9. Securities Act(s) Cases
 10. Social Security Review Cases
 11. All other Federal Question Cases
 (Please specify): Family Medical Leave Act

B. Diversity Jurisdiction Cases:

1. Insurance Contract and Other Contracts
 2. Airplane Personal Injury
 3. Assault, Defamation
 4. Marine Personal Injury
 5. Motor Vehicle Personal Injury
 6. Other Personal Injury (Please specify): _____
 7. Products Liability
 8. Products Liability – Asbestos
 9. All other Diversity Cases
 (Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Marc A. Weinberg, Esquire, counsel of record or pro se plaintiff, do hereby certify:

 Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs: Relief other than monetary damages is sought.

DATE: 9.16.24

Attorney-at-Law / Pro Se Plaintiff

60643

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---|---|----------------------------|
| KENIA MURRAY | : | |
| 516 Parnell Place | : | |
| Philadelphia, PA 19144 | : | CIVIL ACTION |
| Plaintiff, | : | |
| v. | : | JURY TRIAL DEMANDED |
| : | | |
| ABINGTON MEMORIAL HOSPITAL, INC. | : | NO.: |
| 1245 Highland Avenue, Suite 401 | : | |
| Abington, PA 19001 | : | |
| and | : | |
| ABINGTON JEFFERSON HEALTH | : | |
| 1245 Highland Avenue, Suite 401 | : | |
| Abington, PA 19001 | : | |
| Defendants. | : | |

COMPLAINT

I. PRELIMINARY STATEMENT

1. Plaintiff, Kenia Murray (hereinafter “Plaintiff”), brings this action under the Family Medical Leave Act, 29 U.S.C. §2601, *et seq.* (hereinafter “FMLA”). Plaintiff seeks equitable relief, compensatory damages, costs and attorney fees from Defendants, for Defendants’ discriminatory practices and other tortious actions.

II. THE PARTIES

2. Plaintiff is an adult individual and citizen of the Commonwealth of Pennsylvania residing at the above-captioned address.

3. Upon information and belief, Defendants, Abington Memorial Hospital, Inc. and Abington Jefferson Health, are Pennsylvania corporations, or businesses, partnerships or other recognized business entities that maintain a principal place of business at the above-captioned

addresses and is currently licensed and authorized to perform medical related services in the Commonwealth of Pennsylvania.

4. At all times material hereto, Defendants acted individually, and/or through their agents, representatives, servants and/or employees, ostensibly or otherwise, who were then and thereafter engaged in Defendants' business and acting within the course and scope of their agency, servitude and/or employment on behalf of Defendants.

5. At all times material hereto, the conduct of Defendants as enumerated within this Complaint occurred within the Commonwealth of Pennsylvania.

III. JURISDICTION AND VENUE

6. Jurisdiction over this action is conferred on this Court by 28 U.S.C. §1331 and 28 U.S.C. §1343.

7. Venue is proper in the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. §1391.

8. At all times material hereto, Defendants, Abington Memorial Hospital, Inc. and Abington Jefferson Health, were "engaged in an industry effecting commerce" as defined in the Labor Management Relations Act, 29 U.S.C. 142 (1) and (3).

9. At all times material hereto, Defendants employed more than fifty (50) employees.

10. At all times material hereto, the above-referenced Defendants were deemed an "employer" as defined by the FMLA, 29 U.S.C. §2611.

11. Defendants, by and through their agents, servants and/or employees, aided and abetted the interference, discrimination and harassment that Plaintiff was subjected to during the course and scope of her employment.

12. At all times material hereto, Plaintiff was an “eligible employee” pursuant to the FMLA, 29 U.S.C. §2611 as Plaintiff was employed by the above-referenced Defendants for at least 12 months with respect to whom leave was requested under the FMLA, 29 U.S.C. §2601, *et seq.* and Plaintiff worked for at least 1,250 hours of service with such employer during the previous 12-month period.

IV. FACTUAL BACKGROUND

13. On or about January 6, 2021, Plaintiff was hired as a Psych Tech at a rate of \$21.00 per hour with eligibility of \$32.00 per hour for overtime.

14. At all times material hereto, Plaintiff performed all employment related services by and through the Psychiatric Department at the above-referenced Defendants and never had any change in job title during the course and scope of her employment.

15. At all times material hereto, Plaintiff’s immediate supervisor was Kimberly Wisniewski.

16. At all times material hereto, all Defendants and their agents, servants and/or employees, were fully aware that Plaintiff requested benefits pursuant to the FMLA because of her need to care for her severely ill family member, namely her mother.

17. During the course of a meeting with Defendant Representative Wisniewski on September 2, 2022, Plaintiff advised Defendant Representative Wisniewski that she was requesting FMLA benefits so that she could care for her ailing mother.

18. Plaintiff was never offered and/or provided FMLA benefits after her conversation with Defendant Representative Wisniewski.

19. To the contrary, Plaintiff allegedly was reprimanded for bringing in too many personal belongings into the work place.

20. During the course of the September 2, 2022 conversation with her immediate supervisor, Plaintiff was told that she was receiving a counselling session by Defendant Representative Wisniewski and it would not be deemed a punitive measure against her employment. Plaintiff thereafter received communication outlining the FMLA process.

21. During the course and scope of said conversation, Plaintiff discussed the need for FMLA benefits and requested assistance from Defendant Supervisor Wisniewski on how to apply for same. Plaintiff was also assured no further discipline would be instituted.

22. Subsequent to this conversation with her immediate supervisor, Plaintiff was discharged on or about September 19, 2022 without having the full ability and capacity within which to assert and file the appropriate FMLA request.

23. Subsequent to her conversation with Defendant Representative Wisniewski, Plaintiff internally appealed her termination with Human Resources Representative Stephanie Brooks.

24. On September 30, 2022, Plaintiff answered all of Defendant Representative Brooks' questions regarding her appeal from termination of her employment and further advised Defendant Representative Brooks that she was initiating the FMLA process prior to her termination.

25. At all times relevant hereto, the conduct of the Defendants, by and through their individual representatives and/or agents, representatives, servants and/or employees, ostensibly

and otherwise, all acted to the severe and great detriment to Plaintiff and said violation of her rights under state and federal law.

26. Plaintiff was advised by Defendant Representative Brooks that she was terminated due to her continuing to bring in too many personal belongings into the work place and bringing food into the work place.

27. On October 26, 2022, Plaintiff received a letter from Defendant Representative Brooks advising that her termination was upheld due to the progressive policy of discipline at Defendants' work place with Plaintiff disallowed from any further appeal of said termination.

28. At all times material hereto, Plaintiff's immediate family member's serious health condition as defined by the FMLA, 29 U.S.C. §2611, should have been acknowledged, approved and accepted by the above-referenced Defendants and Plaintiff should have been afforded the ability to apply for same.

29. Defendants interfered with Plaintiff's rights under the FMLA as Defendants interfered with and/or denied Plaintiff's attempts to exercise her continuing rights under the FMLA by terminating her shortly after her request and application for FMLA benefits.

30. Defendants' discriminatory policy against Plaintiff for exercising and/or attempting to exercise her rights under the FMLA subjected Plaintiff to retaliation and termination as a sole result of said discriminatory conduct.

31. Defendants' reasons for disciplining and/or terminating Plaintiff were inconsistent and pretextual to obscure Plaintiff's discriminatory animus and purpose.

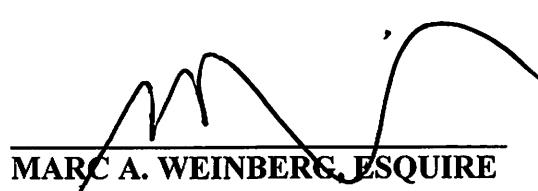
32. The conduct of Defendants and the treatment of Plaintiff in her employment, termination and retaliation violated the FMLA, 29 U.S.C. §2601, *et seq.*, as Plaintiff's discharge

and retaliation from employment was based solely on her need to provide health care assistance to her ailing mother.

WHEREFORE, Plaintiff, Kenia Murray, seeks a determination that Defendants violated the Family Medical Leave Act, 29 U.S.C. §2601, *et seq.* and requests all damages and relief permitted under the FMLA, including but not limited to: back pay and front pay; compensatory damages; equitable relief; retroactive relief; injunctive relief including but not limited to barring future discriminatory conduct; attorney's fees, expert fees, costs and expenses; and such further relief as this Court deems just and proper.

Respectfully submitted,

BY:



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Dated: